

REMARKS

This Amendment and Request for Reconsideration is being filed in response to the final Office Action mailed on March 3, 2008. Claim 1 has been amended to include the elements of dependent claim 19, and claim 19 has been canceled. Support for the additional amendment to claim 1 is found in the as-filed specification, for example on page 5, line 28 to page 6, line 2.

Claims 1-4 and 17-32 have been rejected under 35 U.S.C. 103(a) as being obvious over WO 86/00013 in view at US 2002/0168327. Applicant has carefully considered this rejection, and respectfully disagrees.

With respect to claims 20, 17, and 30, Applicant believes that the Examiner has failed to set forth a *prima facie* case of obviousness because the references teach away from making the suggested combination. The Office Action states that it would have been obvious for one of ordinary skill in the art to apply the proteins taught by Bailey in the composition of WO. However, the WO reference specifically teaches away from this combination. The WO reference requires two separate compositions, one which contains a reducing agent, and the other may contain a protein. Page 2 of the WO reference specifically teaches separate application of these two separate compositions. The fact that the WO reference recognizes the potential use of the protein, but specifically teaches its separate application, would not teach one of ordinary skill in the art to expect success when making the modifications suggested by the Office Action. It is only by using hindsight, after reading Applicant's own disclosure, that the Examiner suggests the proposed modification.

Claims 1-4 and 17-32 all require that the claimed composition is in the form of a paste, cream, or gel. The Office Action recognizes that the WO reference fails to teach a paste, cream or gel, and therefore relies on Bailey, which states that compositions may be formulated as creams, pastes or gels (although it does not teach how to do anything of the sort). Applicant does not believe that the cited references contain any motivation to make the suggested modification. In fact, the WO reference teaches away from a paste, cream or gel. On page 3, the WO reference states that the reducing composition is an aqueous solution. It must be noted that this is not a case when one reference is silent as to an attribute, while another reference teaches that particular attribute. The WO reference is not silent as to form of the composition, but specifically states that it is an aqueous solution. Therefore, the cited references do not

teach one of ordinary skill in the art to expect success when making the modifications suggested by the Office Action. It is only by using hindsight, after reading Applicant's own disclosure, that the Examiner suggests the proposed modification.

Additionally, claim 1 and the claims dependent thereon state that the deformed nail is softened and restored to a normal condition when said composition is applied to a deformed nail with an external force. The cited references do not teach or suggest this feature.

CONCLUSION

Applicant believes that no *prima facie* case of obviousness has been set forth, for the reasons stated hereinabove. Applicant respectfully requests a Notice of Allowance for the instant claims. Should the Examiner wish to discuss the instant Office Action, the undersigned attorney would welcome a telephone call.

A Request for Continued Examination is filed along with this amendment and is accompanied by a fee payment of \$810. The undersigned attorney hereby authorizes the Commissioner to charge payment of any fees associated with this communication or to credit any overpayment to Deposit Account No. 18-0987.

Respectfully submitted,

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